

# COMMEMORATING THE 250TH BIRTHDAY OF JOHN MARSHALL

Mr. ALLEN. Mr. President, I am pleased today to honor the birth of one of Virginia's and America's true citizen soldiers, statesmen, and most importantly jurists, the former Chief Justice of the United States, John Marshall.

The 250th commemoration of his birth over the weekend takes on special significance this week as the Senate prepares to confirm John Roberts as the 17th Chief Justice of the United States. He will replace Chief Justice William Rehnquist, whose decent, dedicated and principled leadership will be difficult to replace. I am confident that Judge Roberts will follow in the tradition of honorable service that was so evident in the work of former Chief Justices Rehnquist and Marshall.

John Marshall's legacy as a Federalist is truly remarkable, but what many people fail to address is his true love for a young America and the desire to see our country succeed and persevere for generations to come.

A native Virginian, from Germantown, he grew up with his parents Thomas and Mary Randolph Keith. His devotion to our Nation was ever present when the Revolutionary War began with the firing of the historic shots at Lexington and Concord. Like so many of his great countrymen, Marshall did not waver in spirit or succumb to fear; Marshall picked up arms against the tyrannical oppressive British Crown and defended the freedom and liberty that he envisioned for Virginians and other colonies.

At the young age of 20, Marshall joined the Culpeper Minute Men. He was chosen a lieutenant. Marshall proceeded to nobly fight in the battle of Great Bridge. In fact, while enduring the cold winter at Valley Forge, Marshall was General George Washington's chief legal officer and by the end of his military service, John Marshall was a brigadier general for the Second Brigade in the Virginia Militia.

After his valiant war service, Marshall returned to Virginia to study law under George Wythe at the College of William and Mary. He was admitted to Phi Beta Kappa and the Virginia Bar. Marshall's desire to practice in the courts and the court of appeals led him to the great capital city of Richmond. It is in Richmond where Marshall's political and judicial life began to flourish.

John Marshall became one of the leading attorneys defending Virginians in the United States District Court of Virginia, and as a consequence, he was selected to be the lead counsel in arguing the landmark case, *Ware v. Hylton*, in the 1796 term of the United States Supreme Court. This would be the only case that John Marshall would argue before the Nation's highest court and, ironically, he lost.

Like his legal career, Marshall saw success in politics. He held legislative office as a member of the Virginia House of Delegates, a member of the

Governor's Council of State, and finally as a member of the United States House of Representatives. But one of his most important, yet often overlooked roles is his election to the Virginia convention that ratified the Federal Constitution. Marshall rose and delivered a very poignant speech on the role of the judiciary. This speech dispelled many of the fears of a Federal court system and truly defined his views on the proper function of government.

Nonetheless, John Marshall was not a boisterous individual. He refused many attempts by President Adams to appoint him to Federal office. But he accepted and served as a diplomatic envoy to France for President Adams as well as Adams' Secretary of State. It was his dedicated service as Secretary of State that led President Adams to appoint Marshall to the United States Supreme Court, where his legacy would endure.

We all know the landmark cases that John Marshall decided. From *McCulloch v. Maryland* to *Gibbons v. Ogden*, Marshall's contribution to the American judiciary system is ever present. But the case that truly enshrines his legacy is his ruling in *Marbury v. Madison*. In truth, what made this even more impressive was that *Marbury* was the very first case that the Supreme Court heard under the leadership of Chief Justice Marshall.

The Marshall Court's ruling in *Marbury v. Madison* has defined the role of the Supreme Court and its pivotal place in our system of checks and balances. Although the decision limited the power of the Supreme Court, it also served to establish the Court's authority to review the constitutionality of acts of Congress. The doctrine of judicial review became a fundamental principle of Constitutional law.

While I am a Jeffersonian who wishes to limit the reach and meddling of the Federal Government into the rights and prerogatives of the people and the States, I do believe these foundational Constitutional questions, debates, and decisions are noteworthy for the education of our present leaders and students. By commemorating historical figures such as John Marshall, we will help our young people better understand American history and what it means to be a citizen of the United States. One thing is certain: John Marshall deserves a prominent place in this Nation's history for his life of service and the impact he made on America even after death. It was, after all, Chief Justice Marshall's funeral that caused the famous crack in the Liberty Bell when it tolled for his procession in 1835. Indeed, John's Marshall's indelible mark in American lore came in many forms.

And so it is with great honor that I celebrate the birthday of one of our great citizen soldiers, statesmen, and Chief Justices. We should celebrate John Marshall's contribution to our

country. His steadfast commitment to federalism helped define the role of the courts and may have ultimately preserved the delicate equilibrium of our Government. But what trumped his loyalty to the federalist way of life, was his love for his Nation and his desire to see America flourish into the great country that it is today.

I would like to take this opportunity to wish a happy birthday to Chief Justice John Marshall, who was born 250 years ago in the great Commonwealth of Virginia. May Virginia and America continue to be blessed with men and women of his unflinching character and spirit.

## SIMON WIESENTHAL

Mr. COLEMAN. Mr. President, there are many kinds of heroes in our world.

Some create magnificent works of art which raise our spirits to nobler visions.

Some make tremendous scientific discoveries which revolutionize our understanding and our use of nature for human good.

Some reach unprecedented achievement by adventuring where humans have never been before.

But today we are honoring the late Simon Wiesenthal, a different kind of hero who didn't achieve in the realm of beauty, science or adventure. His life achievement instead was to hold up to humanity the truth about one of its ugliest chapters. He faced what is worst in humankind, and triumphed over it.

In almost every culture the concept of justice begins with finding the truth. Simon Wiesenthal was a principled and indefatigable pursuer of the truth of the Nazi holocaust. He was not content to let the stain of the Nazi murder of Jews and others to be washed away with the passage of time. He sought to document their acts so that they could be recorded forever.

But his life's work went beyond finding the truth. He traveled the globe to make sure surviving members of the Third Reich were held accountable for their monstrous crimes.

He summed up his life with the words "Never forget. Never again." He made us recognize that the simple act of forgetting opened the door for the unthinkable to recur.

World history tells us that every terrible evil starts small and grows to the point where it cannot be controlled except by extraordinary means and cost.

Simon Wiesenthal's life teaches us to deal with anti-Semitism wherever it rears its head so that we don't allow it to grow into something we can no longer stop.

He urged us not only to face the truth, but to act upon it.

Centuries ago a Spanish Rabbi named Maimomedeas said this:

Each of us should view ourselves as if the world were held in balance and a single act of goodness may tip the scales.

Simon Wiesenthal did countless acts of goodness and tipped the scales of

world history and we honor him for that. But he also places a burden on all of us, for posterity's sake, to do our part, to raise our voices and to take action whenever we see hatred rear its head.

We honor him best by devoting ourselves to the work of justice and action he accomplished.

#### MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1761. A bill to clarify the liability of government contractors assisting in rescue, recovery, repair, and reconstruction work in the Gulf Coast region of the United States affected by Hurricane Katrina or other major disasters.

#### MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1771. A bill to express the sense of Congress and to improve reporting with respect to the safety of workers in the response and recovery activities related to Hurricane Katrina, and for other purposes.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-3978. A communication from the Coordinator, Forms Committee, Federal Election Commission, transmitting, pursuant to law, the report of revisions to FEC Form 5, FEC Form 6, and FEC Form 10; to the Committee on Rules and Administration.

EC-3979. A communication from the Employee Benefits Program Manager, Personal and Family Readiness Division, United States Marine Corps, transmitting, pursuant to law, the 2005 annual report for the Retirement Plan for Civilian Employees of the United States Marine Corps Personal and Family Readiness Division and Miscellaneous Nonappropriated Fund Instrumentalities; to the Committee on Homeland Security and Governmental Affairs.

EC-3980. A communication from the Regulations Officer, Office of Regulations, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Revised Medical Criteria for Evaluating Impairments That Affect Multiple Body Systems" received on September 18, 2005; to the Committee on Finance.

EC-3981. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency and related measures blocking property of persons undermining democratic processes or institutions in Zimbabwe that was declared in Executive Order 13288 of March 6, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-3982. A communication from the Under Secretary, Emergency Preparedness and Response, Department of Homeland Security, transmitting, pursuant to law, a report that funding for the State of Texas as a result of the emergency conditions resulting from the influx of evacuees from areas struck by Hurricane Katrina beginning on August 29, 2005, and continuing, has exceeded \$5,000,000; to

the Committee on Banking, Housing, and Urban Affairs.

EC-3983. A communication from the Counsel for Legislation and Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Mixed-Finance Development for Supportive Housing for the Elderly or Persons With Disabilities and Other Changes to 24 CFR Part 891" ((RIN2502-AH83)(FR-4725-F-02)) received on September 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-3984. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, the report of a draft bill entitled "To Rename Dayton Aviation Heritage National Historical Park in the State of Ohio as 'Wright Brothers-Dunbar National Historical Park'"; to the Committee on Energy and Natural Resources.

EC-3985. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, the Administration's International Energy Outlook 2005 (IEO2005); to the Committee on Energy and Natural Resources.

EC-3986. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, the Commission's Year 2005 Inventory of Commercial Activities; to the Committee on Energy and Natural Resources.

EC-3987. A communication from the Chairman, Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the Board's Fiscal Year 2005 Annual Report on Commercial Activities; to the Committee on Energy and Natural Resources.

EC-3988. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report on the general social, political, and economic conditions in the Republic of the Marshall Islands and the Federated States of Micronesia; to the Committee on Energy and Natural Resources.

EC-3989. A communication from the Chief Human Capital Officer, Office of Environmental Management, Department of Energy, transmitting, pursuant to law, the report of a confirmation in the position of Assistant Secretary for Environmental Management, received on September 21, 2005; to the Committee on Energy and Natural Resources.

EC-3990. A communication from the Chief Human Capital Officer Office of Congressional and Intergovernmental Affairs, Department of Energy, transmitting, pursuant to law, the report of a confirmation in the position of Assistant Secretary, Congressional and Intergovernmental Affairs, received on September 21, 2005; to the Committee on Energy and Natural Resources.

EC-3991. A communication from the Chairman, National Labor Relations Board, transmitting, pursuant to law, the Board's inventory of inherently governmental and commercial activities; to the Committee on Health, Education, Labor, and Pensions.

EC-3992. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medical Devices; Immunology and Microbiology Devices; Classification of Ribonucleic Acid Preanalytical Systems" (Docket No. 2005N-0263) received on August 21, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC-3993. A communication from Acting Director, Directorate of Standards and Guidance, Occupational Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Updating OSHA Standards Based on National Consensus Standards" (RIN1218-

AC08) received on September 21, 2005; to the Committee on Health, Education, Labor, and Pensions.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 37. A bill to extend the special postage stamp for breast cancer research for 2 years (Rept. No. 109-140).

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. SNOWE:

S. 1767. A bill to require the Federal Communications Commission to reevaluate the band plans for the upper 700 megahertz band and the un-auctioned portions of the lower 700 megahertz band and reconfigure them to include spectrum to be licensed for small geographic areas; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER (for himself, Mr. LEAHY, Mr. CORNYN, Mr. ALLEN, Mr. GRASSLEY, Mr. SCHUMER, and Mr. FEINGOLD):

S. 1768. A bill to permit the televising of Supreme Court proceedings; to the Committee on the Judiciary.

By Mr. ENZI (for himself, Mr. KENNEDY, Mr. ALEXANDER, Mr. DODD, Mr. BURR, Ms. MIKULSKI, Mr. DEWINE, and Mrs. CLINTON):

S. 1769. A bill to provide relief to individuals and businesses affected by Hurricane Katrina related to healthcare and health insurance coverage, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. OBAMA (for himself, Mrs. MURRAY, Mr. CORZINE, Mr. KERRY, and Mr. LEVIN):

S. 1770. A bill to amend the Internal Revenue Code of 1986 to provide for advance payment of the earned income tax credit and the child tax credit for 2005 in order to provide needed funds to victims of Hurricane Katrina and to stimulate local economies; to the Committee on Finance.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1771. A bill to express the sense of Congress and to improve reporting with respect to the safety of workers in the response and recovery activities related to Hurricane Katrina, and for other purposes; read the first time.

By Mr. INHOFE (for himself, Mr. DEMINT, Ms. MURKOWSKI, Mr. VOINOVICH, Mr. ISAKSON, Mr. THUNE, and Mr. BOND):

S. 1772. A bill to streamline the refinery permitting process and for other purposes; to the Committee on Environment and Public Works.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1773. A bill to resolve certain Native American claims in New Mexico, and for other purposes; to the Committee on Indian Affairs.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated: